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Attorneys for Defendant
DELIA FABRO-MISKE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Cr. No. 1-19-CR-00099 DJK-KJM

Plaintiff,

DELIA FABRO-MISKE'S MOTION
IN LIMINE NO. 1 RE: DAILY
TRANSCRIPTS

vs.

DELIA FABRO-MISKE (12),

Defendant.

Delia Fabro-Miske, by her counsel, Marcia A. Morrissey and Donovan A. Odo, files this motion in limine, in which co-defendants Jason K. Yokoyama and John B. Stancil join, asking the Court to order the production of daily transcripts

of the trial proceedings in this case, including jury selection.

This is a case in which the Court should exercise its discretion regarding ancillary trial expenditures and provide the parties with daily transcripts of trial proceedings. The trial of Ms. Fabro-Miske and her co-defendants is expected to last five months, perhaps longer. The government's initial witness list is comprised of 698 individuals. There are twenty-two (22) counts in the Third Superseding Indictment, as well as five (5) Forfeiture Notices. According to a detailed letter from government counsel provided in December 2020, which was supplemented on August 17, 2023, the government intends to prove seventy-six (76) alleged racketeering and co-conspirator acts that are not expressly pled in the superseding indictment. In addition, the government is expected to present the testimony of numerous expert witnesses, law enforcement officers, as well as cooperating witnesses whose credibility will be contested.

There will be multiple sharply disputed issues of fact at trial. Given the expected length of the case and the number of witnesses that will be called, daily transcripts are warranted. *Cf. United States v. Scarpa*, 691 F, Supp. 635, 636 (E.D.N.Y. 1988) (no error to deny daily transcripts in a four-day trial where there was no disputed issue of fact).

In addition, Ms. Fabro-Miske's Sixth Amendment rights to confrontation

and cross-examination of witnesses and effective assistance of counsel, as well as her Fifth Amendment right to due process, weigh in favor of ordering that daily transcripts be prepared during the trial. *See Chambers v. Mississippi*, 410 U.S. 284, 295 (1973) (recognizing that the opportunity for cross-examination is an essential component of the right of confrontation).

Dated: November 13, 2023

Respectfully submitted,

/s/ Marcia A. Morrissey
MARCIA A. MORRISSEY

/s/ Donovan A. Odo
DONOVAN A. ODO

Attorneys for Defendant
DELIA FABRO-MISKE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was electronically served through CM/ECF on the following on November 13, 2023:

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DATED: November 13, 2023.

/s/ Marcia A. Morrissey
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